

VZCZCXRO0147  
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSL  
DE RUEHSR #0016/01 1981307  
ZNY CCCCC ZZH  
P 171307Z JUL 09  
FM AMCONSUL STRASBOURG  
TO RUEHC/SECSTATE WASHDC PRIORITY 0176  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE  
RUEHSR/AMCONSUL STRASBOURG 0187

C O N F I D E N T I A L SECTION 01 OF 02 STRASBOURG 000016

SIPDIS

STATE ALSO FOR EUR/ERA, EUR/SCE, AND EUR/WE

E.O. 12958: DECL: 7/17/2019  
TAGS: [PREL](#) [PHUM](#) [COE](#) [KV](#) [FR](#)  
SUBJECT: COUNCIL OF EUROPE AND KOSOVO MEMBERSHIP

REF: DYOKAS-SILBERSTEIN AND CARVER-SILBERSTEIN EMAILS

STRASBOURG 00000016 001.2 OF 002

CLASSIFIED BY: Vincent Carver, CG, Strasbourg, State.  
REASON: 1.4 (b), (d)  
SUMMARY

- - - - -  
¶1. (C) The Council of Europe (COE), involved in democratic consolidation in Kosovo over the past decade, takes a "status-neutral" approach to Pristina; many COE member states that have recognized Kosovo independence, including the UK, are cautious about promoting Kosovo's potential COE membership. Serbia and Russia will obviously oppose anything but a "status neutral" approach to Kosovo; the departing COE Secretary General strongly supports such a status-neutral policy. Should Kosovo plan on applying for COE membership, we will have to prepare member state capitals to push back on those ambassadors here who likely would argue that such a move would break the spirit of consensus of the COE; we should also ensure support for such membership at the level of foreign ministers (two-thirds of the 47 COE FMs would have to vote in favor of membership). In addition to the consensus argument, Serbia assuredly would call for no movement on such an application until at least after the International Court of Justice rules on Kosovo's declaration of independence. Kosovo is not precluded from joining "partial agreements" of the COE, such as that covering the COE's Development Bank (CEB). Pristina's membership in the bank, however, likely would also face an uphill battle. End summary.  
COE's MODEST PRIORITIES

- - - - -  
¶2. (U) COE activities in Kosovo are generally taken in concert with other international organizations. The Council notably co-sponsors a series of "joint programs" with the European Union. These projects are focused on education, particularly on the Council's three pillars: human rights, democracy, and the rule of law. In 2009, the COE and EU co-sponsored workshops in Pristina and Mavrovo discussing the rights of the Roma, the state-building process, and the modernization of history curricula to encourage social cohesion. To a more limited degree, the COE-EU programs engage Kosovo's leaders on governmental issues. The organizations are currently in the middle of a multi-year joint mission looking to assist in establishing non-judicial Human Rights Structures (NHRS). All COE and EU operations are performed under the auspices of UNMIK and comply with UN Resolution 1244.

¶3. (U) One of the flagship "joint actions" between the COE and European Commission in Kosovo is the "Ljubljana Process," an initiative to fund the rehabilitation of heritage sites in South-East Europe. The COE and EC selected three landmarks in Kosovo to be restored among the 26 total projects. In refurbishing the sites, the Ljubljana Process has aimed to bring tangible benefits to local populations in transition by providing skills training, creating jobs, and eventually increasing tourism.

¶4. (U) In January 2009, the COE began the process of re-launching a Local Democracy Agency (LDA) in Kosovo. In order

to facilitate the integration of Kosovo's many ethnic communities, the LDA aims to promote democratic consolidation at the local level, inter alia, through training of local councilors and civil servants. The LDA is slated to become operational in September 2009.

#### LEGAL INSTRUMENTS

15. (U) The "Constitution of the Republic of Kosovo," which entered into force in June 2008, also attests to the involved relationship between Pristina and Strasbourg. According to Article 22, the European Convention on Human Rights, the COE Framework Convention on the Protection of National Minorities, and the COE Convention against Torture and other Inhuman Treatment and Punishments are directly applicable in Kosovo. The European Court of Human Rights, however, has no legal basis for the exercise of jurisdiction over Kosovo.

#### THE FEAR OF NON-CONSENSUS ~

16. (C) The Council of Europe maintains a "status-neutral" approach to Kosovo - an approach adhered to in the strictest terms given the direct orders of the (departing August 31) COE Secretary General (criticized by several ambassadors here for not allowing the COE staff in Kosovo to meet with Kosovo officials absent the presence of any UNMIK personnel). After Kosovo declared independence, the President of the PACE, Llums Maria de Puig, reiterated then that the ultimate goal remained a Kosovo "safe for all those who live in it regardless of their ethnic origin," but also implored EU member states to agree on a single position.

17. (U) Though they have reaffirmed the need to build trust and accountability in Kosovo, the Committee of Ministers and the PACE have widely accepted the status quo. At a May 2009 ministerial conference in Madrid, Serbian Minister of Foreign Affairs Vuk Jeremic called upon the COE to keep Kosovo status-neutral until the International Court of Justice delivered an opinion on the legality of its declaration of independence. When Jeremic reiterated his argument at a Committee of Ministers' Deputies (resident ambassadors) meeting in June 2009, not one delegation challenged him on the issue.

STRASBOURG 00000016 002.2 OF 002

#### ~ AND POTENTIAL COE MEMBERSHIP

18. (C) Despite the obvious dissent of Serbia and Russia and grumblings if not outright opposition from Spain, Romania, and other EU states that have not recognized Pristina, Kosovo could technically become a member of the Council of Europe. Membership is attained in one of two ways. At a meeting of the Ministers' Deputies (resident ambassadors in Strasbourg), the decision must be unanimous, with two-thirds of the representatives voting. This obviously would not happen anytime soon.

19. (C) Foreign ministers, however, could take up the issue at a formal ministerial (note: the next formal ministerial will be hosted in May 2010 by Switzerland (COE Chair November 2009-May 2010) - during the Spanish EU Presidency. Ministers themselves need only secure a two-thirds majority (this must be, however, two-thirds of all COE member state foreign ministers, not just two-thirds of those who show up at a ministerial and vote). As Jean-Louis Laurens, Director General of Democracy and Political Affairs at the COE, noted, "Kosovo has already been recognized bilaterally by two-thirds of the Council of Europe members, thus, logically the votes for admission in this organization ~ are not an issue at all, because there is no consensus vote rule." Currently, 33 of the 47 COE member states have bilaterally acknowledged Kosovo's independence.

#### MORE THAN JUST THE MATH

10. (C) Several sources, however, have cautioned to us that Kosovo membership is not simply a numbers game. A colleague from the UK Foreign and Commonwealth Office suggested that, should the question come to a decision, fewer than 33 ministers likely would actually show up to a formal ministerial to deposit a positive vote. Similarly, the Chief of Staff of the COE Commissioner for Human Rights, when asked if she saw sufficient

support for Kosovo membership, responded flatly that the political will is not there. The Secretariat official in charge of assisting the Council of Ministers also told us separately that there is little enthusiasm within the COE to entertain a possible membership application from Kosovo.

THE COE DEVELOPMENT BANK

-----  
¶11. (C) Having recently joined the IMF and World Bank, Kosovo could make a compelling case for membership in the Council of Europe Development Bank. When reviewing the bank's bylaws, we note that there is no mention of COE membership being a prerequisite for accession. In fact, the Holy See, an observer at the COE, is a bank member. Liechtenstein joined the bank before joining the COE. We spoke recently, however, with a bank Vice Governor, who insisted that COE membership, or at least solid progress on the accession process, would be needed for bank membership. When we noted the Vatican and Liechtenstein precedents our contact adjusted his story, but only slightly, noting that they were "weak" precedents. That said, he observed that the bank would find it difficult to reject outright a membership application from Kosovo if it were actively supported by a majority of central European states. (Note: A majority of bank member states and a two-thirds majority of bank "shares" would have to approve a membership application; France, Germany, and Italy each hold 16.640 percent of shares; Spain holds 10.852 percent; Serbia holds a mere 0.470 percent; neither the UK nor Russia are bank members; see the bank's website for a complete list at <http://www.coebank.org>.)

COMMENT

-----  
¶12. (C) Should we wish to pursue either or both membership options for Kosovo as outlined above, we would advise careful preparation in member state capitals that have recognized Kosovo. Such demarches, particularly regarding actual COE membership, would likely be most effective if done not only to human rights and Balkans desks, but also to the cabinets of the ministers themselves - given that the ministers would actually have to vote personally for such membership. Likewise, we should approach the two candidates to replace the current secretary general to urge them, if elected this September, to take a less stringent approach on Kosovo's status within the COE (ref). Finally, when faced with the likely response from some member states that Kosovo membership would be a consensus-breaker, we should use another familiar COE argument - it is better to have Kosovo inside the organization so that the COE can be more effective in promoting the rule of law, human rights, and democracy throughout Kosovo rather than keeping it outside the organization.

CARVER